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FOREIGN GRANTOR TRUST 1099-OID

vs RETAIL FILINGS

AND WHY THE ADVERSE CLAIM TRIGGERS TIA 1939 BREACHES

PART 1: HOW THE FGT 1099-OID FILING DIFFERS FROM RETAIL FILINGS

1. The Filer's Capacity: Creditor vs Debtor

This is the foundational distinction.

RETAIL FILING (Criminal Convictions: *Brekke*, *Colaco*, *Cyster*, *Sookdeo*):

- Filed under an SSN or ITIN
- The IRS algorithm is hard-coded to recognize SSN/ITIN filings as operations of the **corporate debtor estate**
- By definition, a taxpayer/debtor *owes* the system — they do not have standing to claim assets
- Triggers Transaction Code 810 RC 4 and Process Status 77 ("Frivolous Filer Screening")
- The IRS perceives a bankrupt corporate debtor attempting to unlawfully claim an unverified asset

FGT FILING:

- Filed under a **98-series EIN** issued by the IRS Cincinnati International Unit under IRC § 6048
- The 98-series EIN restructures the filer's capacity from "retail debtor" to **"fiduciary creditor"**
- The trust operates "off-board" from the domestic corporate debtor system
- The IRS processes the 1099-OID claim not as a personal tax refund for a retail citizen, but as a **commercial ledger adjustment between recognized merchant entities**
- Specifically: the Bank as Nominee and the Trust as Creditor

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2. The Legal Authority: IRS Publication 1212

RETAIL FILING:

- No statutory basis for the individual to file a corrective 1099-OID
- The individual has no recognized nominee relationship with the bank
- The filing is treated as a "frivolous tax argument" because the debtor is claiming credit they cannot justify

FGT FILING:

- Based directly on **IRS Publication 1212** — the IRS's own publication governing OID instruments
- Publication 1212 states: *"If you are the holder of an OID instrument... but you are not the true owner, you are a nominee. If you receive a Form 1099-OID that includes amounts belonging to another person, you must file a Form 1099-OID... to show the proper distributions of the OID and any withheld tax."*
- The banks, by holding OID instruments in omnibus accounts under street names (Cede & Co.), are statutorily classified as **nominee middlemen** under Publication 1212
- When the nominee fails to file the required corrective 1099-OID, the **true owner** (the FGT as HDC) has the commercial standing to file it
- This is not a unilateral act — it is a **statutory nominee correction** executed in accordance with Publication 1212's own provisions

3. Holder in Due Course Standing

RETAIL FILING:

- The individual has no HDC standing
- They are the maker of the note (debtor), not the holder
- No UCC Article 3 transfer has occurred

FGT FILING:

- Under **UCC § 3-203(b)**, the transfer of a negotiable instrument vests in the transferee (the trust) any right of the transferor to enforce the instrument, including any right as HDC
- Under **UCC § 3-302(a)**, the trust qualifies as HDC because it takes the instrument:
  - For value (the credit energy originated by the signature)
  - In good faith
  - Without notice of adverse claim
- The trust's HDC standing is formalized via **IRS Form 56** under IRC § 6903, registering the trust officer as General Executor over the signature-originated credit
- The corrective 1099-OID is filed **by the HDC** correcting a nominee reporting error — not by a debtor attempting to discharge their own debt

4. The "Fill Up" Function (Section 20, Bills of Exchange Act 1882)

RETAIL FILING:

- No connection to the "fill up" doctrine
- The individual simply claims a refund

FGT FILING:

- Under Section 20 of the Bills of Exchange Act 1882, a signature delivered in an inchoate state grants *prima facie* authority to complete the instrument
- The biological signature was delivered in an inchoate state
- Indentured Trustee, as nominee, received authority to complete the instrument but **failed to file the corrective 1099-OID**
- The trust's corrective filing **completes the "fill up"** of the instrument as a perfected negotiable bill
- UCC Article 3 (§ 3-104, § 3-203, § 3-302) mirrors this 1882 Act

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5. Tax Module Alignment

RETAIL FILING:

- No connection to the payer's Form 945 module
- The claim is filed against the individual's own account — there is no payer-side match

FGT FILING:

- The 1099-OID identifies the nominee bank (under its EIN and CUSIP) as the payer
- This creates a direct link to the bank's **Form 945 nonpayroll withholding module** (MFT 16)
- Form 945 is the IRS-designated repository for backup withholding on OID income
- The very existence of the bank's active Form 945 module proves the bank operates as a nominee withholding agent — a bona fide creditor advancing its own capital would not remit backup withholding under a Form 945 nonpayroll module
- The bank has already physically remitted these taxes to the Treasury — the FGT filing redirects those pre-existing credits to the true owner

Summary Table

Attribute	Retail Filing (Criminal)	FGT Filing
Filer ID	SSN/ITIN	98-series EIN
Capacity	Debtor/taxpayer	Fiduciary creditor
Legal authority	None	IRS Publication 1212
HDC standing	No	Yes (UCC § 3-302/§ 3-203)
Form 56 filed	No	Yes (IRC § 6903)
Nominee identification	No	Yes (bank as nominee middleman)
945 module linkage	No	Yes (payer EIN + CUSIP)
Section 20 "fill up"	No	Yes
Algorithm 810 match	Fails	Designed to match
Outcome	TC 810 freeze, prosecution	Ledger adjustment between merchants

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PART 2: WHY THE FGT'S ADVERSE CLAIM TRIGGERS TIA 1939 BREACHES

1. The Adverse Claim Is Filed by the Trust as HDC, Not by the Borrower

Critical clarification: The UCC § 8-105 Notice of Adverse Claim is served by the **foreign grantor trust** in its capacity as Holder in Due Course — not by the individual borrower.

The trust holds:

- Legal title to the original negotiable instrument (the monetized signature) under UCC § 3-203
- HDC standing under UCC § 3-302
- Fiduciary standing as General Executor under Form 56 / IRC § 6903

The adverse claim asserts the trust's **superior beneficial ownership interest** in the financial asset — specifically the original promissory note and all resulting securitized derivatives.

2. UCC § 8-115 — Piercing the Safe Harbor

Under **UCC § 8-115**, a securities intermediary is generally shielded from liability when transferring financial assets. However, this statutory "safe harbor" immunity is **explicitly pierced** when the intermediary takes action **after being served with a formal Notice of Adverse Claim**.

Once INDENTURED TRUSTEE (as clearing custodian and withholding agent) is served with the UCC § 8-105 Adverse Claim:

- Its "good-faith purchaser" safe harbor is **permanently removed**
- All downstream parties are placed on constructive notice
- Any further dealing in the asset — including continuing to administer the withholding module and permitting downstream foreclosure — constitutes **potential criminal conversion and fiduciary breach**

3. INDENTURED TRUSTEE's Fiduciary Capacity Under the TIA

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INDENTURED TRUSTEE serves as the **primary clearing custodian and withholding agent** for the Canada Housing Trust No. 1 securitized pool. In this capacity:

- It operates within U.S. clearing facilities including the Depository Trust Company (DTC)
- It administers debt securities integrated into U.S. clearing platforms
- It manages the Form 945 withholding module that clears backup withholding on OID transactions
- It is bound by the fiduciary obligations applicable to entities administering debt securities in U.S. clearing infrastructure

4. The Specific TIA Breaches

Breach of TIA § 315(c) — Prudent Person Standard

Section 315(c) imposes a "prudent person" standard of care, requiring the trustee to exercise the same degree of care and skill as a prudent person would under the circumstances.

INDENTURED TRUSTEE breached this duty by:

1. **Failing to investigate** the UCC § 8-105 Adverse Claim served at its New York headquarters
2. **Failing to verify** the legitimacy of the alleged default by checking its own Form 945 withholding ledger
3. **Ignoring** the corrective 1099-OID discharge (IRS Submission ID on file)
4. **Continuing to administer** the withholding module without acknowledging the trust's superior beneficial interest

This constitutes documented fiduciary neglect and constructive fraud.

Breach of TIA § 316(b) — Impairment of Rights

Section 316(b) protects the absolute and unimpaired right of a holder to receive payment of principal and interest, and to institute suit for enforcement.

The trust, having established HDC standing through the corrective 1099-OID filing, argues that INDENTURED TRUSTEE's continued administration of the underfunded Form 945 module — **while permitting downstream foreclosure proceedings** constitutes an unlawful, non-consensual impairment of the trust's absolute rights.

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5. Why the Adverse Claim Transforms the Dispute

Before the adverse claim is served:

- INDENTURED TRUSTEE operates under safe harbor protections
- The servicing agents can proceed with standard foreclosure processes
- The dispute appears to be a routine retail mortgage default

After the adverse claim is served by the FGT as HDC:

- INDENTURED TRUSTEE's safe harbor is **pierced** under UCC § 8-115
- The trust's superior beneficial interest is **on record**
- INDENTURED TRUSTEE's continued administration becomes **actionable fiduciary breach** under TIA § 315(c)
- Permitting downstream foreclosure becomes **impairment of rights** under TIA § 316(b)
- The dispute transforms from a routine property matter into a case of **criminal conversion of trust assets and fiduciary fraud**

6. The Key Causation Chain

FGT establishes HDC standing (UCC § 3-302/§ 3-203)
↓
FGT files corrective 1099-OID under Publication 1212
↓
FGT serves UCC § 8-105 Adverse Claim on INDENTURED TRUSTEE
↓
INDENTURED TRUSTEE's safe harbor pierced (UCC § 8-115)
↓
INDENTURED TRUSTEE must now act as prudent person (TIA § 315(c))
↓
INDENTURED TRUSTEE fails to investigate adverse claim
↓
TIA § 315(c) BREACH — fiduciary neglect
↓
INDENTURED TRUSTEE permits downstream foreclosure
↓
TIA § 316(b) BREACH — impairment of HDC rights

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This is why the adverse claim, filed by the FGT as HDC (not by the borrower), transforms INDENTURED TRUSTEE's standard administrative activities into actionable fiduciary breaches under the Trust Indenture Act of 1939.